

United States
Circuit Court of Appeals
For the Ninth Circuit.

MARY L. GIBBONS,

Petitioner,

vs.

J. S. GOLDSMITH, as Trustee in Bankruptcy of the
Estate of PAT GIBBONS, Bankrupt,

Respondent.

In the Matter of PAT GIBBONS, Bankrupt.

**SUPPLEMENTAL TRANSCRIPT OF RECORD ON
PETITION FOR REVISION AND TRANSCRIPT
OF RECORD IN SUPPORT THEREOF**

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, a Certain Order
of the United States District Court for the
Western District of Washington,
Northern Division.

Filed

MAR 19 1915

F. D. Monckton,
Clerk.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Creditor's Petition.]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

No. 4853.

In the Matter of PAT GIBBONS, Alleged Bankrupt.

To the Honorable C. H. HANFORD, Judge of the
District Court of the United States for the
Western District of Washington, Northern
Division:

The petition of Schwabacher Bros. & Co., Inc., a corporation of Seattle, Washington, and Schwabacher Hardware Co., a corporation of Seattle, Washington, and M. & K. Gottstein, a copartnership composed of K. Gottstein and J. L. Gottstein, Arthur Bastheim and Fred V. Fisher, of Seattle, Washington, respectfully shows:

That Pat Gibbons of the City of Renton, in said District, has for the greater portion of the six months next preceding the date of filing this petition resided at the city of Renton, in King County, in said District and is by occupation a merchant.

That the said Pat Gibbons owes debts to the amount of one thousand dollars and over, is insolvent and is neither a wage-earner, nor a person engaged principally in farming or the tillage of the soil.

That your petitioners are creditors of said Pat Gibbons, having provable claims against him, which amount in the aggregate in excess of the value of securities held by them to five hundred dollars; and that neither of your petitioners is entitled to priority

of payment on his said claim within the meaning of Section 64-B of the Bankruptcy Law of 1898, nor has either of your petitioners received a preference within the meaning of Section 60-A-B of said law as amended. [1*]

2.

That neither of your petitioners holds any security, and that the nature and amount of your petitioners claims are as follows:

Due to Schwabacher Bros. & Co., Inc., upon balance for goods, wares and merchandise sold and delivered to said Pat Gibbons, the sum of \$3650.52.

Due to Schwabacher Hardware Co. upon balance for goods, wares and merchandise sold and delivered to said Pat Gibbons, the sum of \$3688.87.

Due to M. & K. Gottstein upon balance for goods, wares and merchandise sold and delivered to said Pat Gibbons, the sum of \$1275.28.

That within four months next preceding the filing of this petition, the said Pat Gibbons, while insolvent, committed an act of bankruptcy, in that he did suffer and permit a creditor to obtain a preference through legal proceedings, and did not at least five days before the sale or final disposition of the property affected by such preference, vacate or discharge such preference. That the facts relating to said act of bankruptcy are as follows:

That on the 26th day of October, 1911, the Washington Trust & Savings Company obtained a judgment against said Pat Gibbons in the Superior Court of the State of Washington in and for the county of King, cause No. 80,398, for the sum of \$79,806.77.

*Page-number appearing at foot of page of original certified Record.

That thereafter execution was issued upon said judgment and placed in the hands of the sheriff of King County, State of Washington, and said sheriff on November 1st, 1911, duly levied the same upon the following described property located in King County, State of Washington:

All of Section 16, Township Twenty-one (21) N., Range 7 E., W. M., except one hundred (100) feet right-of-way to C. M. & P. S. Railway [2] Company over the East one-half ($\frac{1}{2}$) of Southeast quarter ($\frac{1}{4}$) of said section.

That the sale of said real property is set for January 13th, 1912, at the hour of 10 o'clock A. M., and that said Pat Gibbons has not to this date vacated or discharged the preference created by the rendition of said judgment and the levy of execution; that said levy has not been lifted.

WHEREFORE, your petitioners pray that service of this petition with subpoena may be made upon the said Pat Gibbons as provided by said bankruptcy law of 1898 as amended, and that he may be adjudged bankrupt within the purview of said law.

SCHWABACHER BROS. & CO., INC.,

By S. ARONSON,

Secretary and Treasurer.

SCHWABACHER HARDWARE CO.

By S. FRIEDENTHAL,

Secretary and Treasurer.

M. & K. GOTTSTEIN.

By J. L. GOTTSTEIN,

Petitioners.

LEOPOLD M. STERN,

Attorney for Petitioners.

State of Washington,
County of King,—ss.

S. Aronson, being first duly sworn, on oath deposes and says:

That he is the secretary and treasurer of Schwabacher Bros. & Co., Inc., a corporation, and one of the petitioning creditors mentioned and described in the foregoing petition, and he makes this verification for and on behalf of said corporation, and he does hereby make solemn oath that the statement of facts contained in the foregoing petition, are true according to the best of his knowledge, information and belief.

S. ARONSON.

Subscribed and sworn to before me this 10th day of January, 1912.

[Seal] LEOPOLD M. STERN,
Notary Public in and for the State of Washington,
Residing at Seattle. [3]

State of Washington,
County of King,—ss.

S. Friedenthal, being first duly sworn, on oath deposes and says:

That he is the secretary and treasurer of Schwabacher Hardware Co., a corporation, one of the petitioning creditors mentioned and described in the foregoing petition, and he makes this verification for and in behalf of said corporation, and he does hereby make solemn oath that the statement of facts contained in the foregoing petition are true accord-

ing to the best of his knowledge, information and belief.

S. FRIEDENTHAL.

Subscribed and sworn to before me this 10th day of January, 1912.

[Seal] LEOPOLD M. STERN,
Notary Public in and for the State of Washington,
Residing at Seattle.

State of Washington,
County of King,—ss.

J. L. Gottstein, being first duly sworn, on oath deposes and says:

That he is a member of the copartnership firm of M. & K. Gottstein, one of the petitioning creditors mentioned and described in the foregoing petition, and he makes this verification for and on behalf of said copartnership, and he does hereby make solemn oath that the statement of facts contained in the foregoing petition, are true according to the best of his knowledge and belief.

J. L. GOTTSTEIN.

Subscribed and sworn to before me this 10th day of January, 1912.

[Seal] LEOPOLD M. STERN,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Indorsed]: Creditor's Petition. Filed in the United States District Court, Western District of Washington. January 10, 1912. A. W. Engle, Clerk. By B. O. Wright. [4]

**[Order Referring Matter to Referee in Bankruptcy,
etc.]**

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

IN BANKRUPTCY—No. 4853.

In the Matter of PAT GIBBONS,

Bankrupt.

Whereas, Pat Gibbons, of Seattle, in the County of King and District aforesaid, on the 13th day of July, A. D. 1912, was duly adjudged a bankrupt upon a petition filed in this court against him on the 10th day of January, A. D. 1912, according to the provisions of the acts of Congress relating to bankruptcy,—

IT IS THEREUPON ORDERED, that said matter be referred to John P. Hoyt, one of the referees in bankruptcy of this court, to take such further proceedings therein as are required by said acts; and that the said Pat Gibbons shall attend before said referee on the 18th day of July, at 2:00 P. M. at Seattle, and thenceforth shall submit to such orders as may be made by said referee or by this court relating to said involuntary bankruptcy.

Witness, the Hon. EDWARD E. CUSHMAN,
Judge of the said Court, and the seal thereof, at Seat-

tle, in said District, on the 13th day of July,
A. D. 1912.

[Seal of the Court]

A. W. ENGLE,
Clerk.

B. O. Wright,
Deputy.

Enter.—EDWARD E. CUSHMAN,
District Judge.

[Indorsed]: Order of Reference. Filed in the
United States District Court, Western District of
Washington. July 13, 1912. A. W. Engle, Clerk.
By W. [5]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

IN BANKRUPTCY—No. 4853.

In the Matter of PAT GIBBONS,
Bankrupt.

Report of Appraisers.

We, the undersigned, having been notified that we
were appointed to estimate and appraise the real and
personal property aforesaid, have attended to the
duties assigned us, and after a strict examination and
careful inquiry, we do estimate and appraise the
same as follows:

Appraised
value.

Section sixteen (16), township twenty-one (21) north, range seven (7) east, W. M., King County, Washington, including coal, surface and timber, regardless of any leases, mortgages or liens upon the property	\$145,000.00
Section sixteen (16), township twenty-one (21) north, range seven (7) east, W. M., King County, Washington, including coal, surface and timber; subject to that certain lease dated November 30, A. D. 1910, by and between the above-named bankrupt Patrick Gibbons and Mary L. Gibbons, his wife, as lessors, and F. H. Ketcham as lessee	100,000.00
One and one-half miles of standard gauge railway on said section 16, \$4000 per mile	6,000.00
Lots nineteen (19) and twenty (20), block thirteen (13), town of Renton, King County, Washington.....	3,500.00

In Witness Whereof we hereunto set our hands at Seattle, Washington, this 10th day of January, 1913.

T. A. HILL,
CHAS. E. JONES,
GEO. WALKER EVANS,

[Indorsed]: Report of Appraisers. Filed January 13th, 1913, 10 A. M. John P. Hoyt, Referee.

Filed in the United States District Court, Western Dist. of Washington. Feb. 9, 1915. Frank L. Crosby, Clerk. By B. E. Simpkins, Deputy. [6]

[Amended Schedule of Assets and Liabilities.]

In the United States District Court for the Western District of Washington, Northern Division.

IN BANKRUPTCY—No. 4853.

In the Matter of PAT GIBBONS,

Bankrupt.

Comes now Pat Gibbons, the above-named bankrupt, and files herewith his amended schedule of assets and liabilities, in accordance with permission heretofore granted by the Referee in Bankruptcy, and respectfully shows:

I.

That the schedule hereto annexed, marked "A" and verified by his oath, contains a full statement of all of his debts and the names and addresses of his creditors, so far as your bankrupt is able to state.

II.

That the schedule hereto annexed, marked "B" and verified by his oath, contains an accurate inventory of all of his property, both real and personal.

PAT GIBBONS,

Bankrupt.

CASSIUS E. GATES,

Attorney for Bankrupt. [7]

Statement of All Debts of Bankrupt.**Schedule "A" (1).**

Statement of all creditors who are to be paid in full,
or to whom priority is secured by law.

Claims which have priority. Amount.

- (1) Taxes and debts due and owing to
the United States Nothing
- (2) Taxes due and owing to the State of
Washington, or to any district, or
municipality thereof Nothing
- (3) Wages due workmen, clerks or
servants, to an amount not exceed-
ing \$300 each, earned within three
months before filing the petition .. Nothing
- (4) Other debts having priority by law

PAT GIBBONS,

Bankrupt.

Schedule "A" (2).

Creditors holding securities.....None

PAT GIBBONS,

Bankrupt. [8]

SCHEDULE "A" (3).

Creditors whose claims are unsecured.

Names of Creditors.	Address.	When Contracted.	Nature and consideration of the debt.	Amount.
exter Horton	Seattle Wash.	1910 and prior thereto	Judgment based upon 2 notes for money loaned	\$78000.00
mith & Blockson	Seattle Wash.	1910 and prior thereto	Fruit	99.25
ounglove Grocery Co.	Tacoma Wash.	1910 and prior thereto	Groceries	512.99
laska Junk Co.	Seattle Wash.	1910 and prior thereto	Old canvas	38.51
ugustine & Kyer	Seattle Wash.	1910 and prior thereto	Groceries	206.04
White River Lumber Co.	Enumclaw Wash.	1910 and prior thereto	Lumber	340.84
Seattle Market	Seattle Wash.	1910 and prior thereto	Beef	833.93
ailway & Steel Supply	Seattle Wash.	1910 and prior thereto	Rails	223.81
M. E. Atkinson	Seattle Wash.	1910 and prior thereto	Insurance	65.81
E. Lippman	Seattle Wash.	1910 and prior thereto	Insurance	125.24
Seattle Brewing & Malt- ing Co.	Seattle Wash.	1910 and prior thereto	Beer	2169.98
tandard Oil Co.	Tacoma Wash.	1910 and prior thereto	Oil	301.75
chwabacher Hardware Co.	Seattle Wash.	1910 and prior thereto	Hardware	3497.92
at McCoy	Seattle Wash.	1910 and prior thereto	Judgment on note, money loaned	5000.00
J. Smith	Enumclaw Wash.	1910 and prior thereto	Note	1000.00

Names of Creditors.		Address.	When Contracted.	Nature and consideration of the debt.	
					Amount.
Schwabacher Co.	Grocery	Seattle	1910 and prior	Groceries	3650.00
		Wash.	thereto		
Galbraith-Bacon		Seattle	1910 and prior	Hay & Grain	173.65
		Wash.	thereto		
Fleshner & Mayer		Seattle	1910 and prior	Clothing	173.00
		Wash.	thereto		
Fairbanks-Morse		Seattle	1910 and prior	Pump and pipe	1200.00
		Wash.	thereto		
Puget Sound Machinery		Seattle	1910 and prior	Machines	19.00
		Wash.	thereto		
Enumclaw Creamery		Enumclaw	1910 and prior	Butter	201.47
		Wash.	thereto		
					<hr/> \$97833.39

PAT GIBBONS,
Bankrupt.

[10]

Schedule "A" (4).

Liabilities on notes or bills which ought to be
paid by the drawers, makers, acceptors
or indorsers.....Nothing

PAT GIBBONS,
Bankrupt.

Schedule "A" (5).

Accommodation paper.....Nothing

PAT GIBBONS,
Bankrupt.

Oath to Schedule "A."

United States of America,
District of Washington,—ss.

On this 9th day of June, 1914, before me, personally came Pat Gibbons, the person mentioned in and who subscribed to the foregoing amended schedules, and who, being by me first duly sworn, did

declare that the said schedules, as amended, contained a true and correct statement of all his debts, in accordance with the Acts of Congress relating to bankruptcy.

PAT GIBBONS.

Subscribed and sworn to before me this 9th day of June, 1914.

[Seal]

LEROY V. NEWCOMB,

Notary Public in and for the District and State of Washington, Residing at Seattle, in Said State.

[11]

Schedule "B" (1).

Statement of All Property of Bankrupt Real Estate.

Description.

Value.

Occidental Coal Mine:

Section 16, township 21 north of range

7 E., W. M., containing 640 acres . . . 1,000,000.00

Together with one and one-half ($1\frac{1}{2}$)

miles of standard gauge railway . . . 15,000.00

Lots 19 and 20 of the Town of Renton

with dwelling-house thereon 2,500.00

\$1,017,000.00

PAT GIBBONS,

Bankrupt.

Schedule "B" (2).

Personal Property.

A—Cash in hands of Farrell, Kane & Stratton, attorneys, which was received from the City of Tacoma, and had

been fixed and determined through arbitration proceedings had before the filing of the original petition herein, and which was subsequently paid over to said attorneys.....\$1,690.74

B—Bills of exchange, promissory notes or Securities of any description (each to be set out separately)..... Nothing

C—Stock in trade..... Nothing

D—Household goods, furniture, household stores, wearing apparel and ornaments of the person, viz..... 300.00

4 kitchen chairs.

1 sideboard.

1 ice-chest.

1 kitchen table.

1 cook stove.

5 dining chairs.

1 dining table.

1 rug 9 x 12—cotton.

1 “ 7 x 6—mixed.

1 “ 10 x 12—mixed.

1 “ 4 x 8—wool.

1 “ 10 x 28—wool.

3 wicker chairs.

2 small chairs.

1 rocker. [12]

Balance brought forward.....\$1,990.74

1 leather chair.

1 settee.

1 piano (bought 23 years ago).

1 large table (carpenter made).

1 lounge (old).	
4 bedroom sets and bedding.	
1 plush chair.	
E—Books, prints and pictures, viz.....	Nothing
F—Horses, cows, sheep and other animals, (with number of each), viz.....	Nothing
G—Carriages and other vehicles, viz.....	Nothing
H—Farming stock and implements of hus- bandry, viz.....	Nothing
I—Shipping and shares in vessels, viz.....	Nothing
J—Fixtures used in business.....	Nothing
K—Patents, copyrights and trademarks, viz.....	Nothing
L—Goods of personal property of any other description, with the place where each is situated, viz.....	Nothing

\$1,990.74

PAT GIBBONS,
Bankrupt.

Schedule "B" (3).

Choses in Action.

A—Debts due petitioner on open account:	
Due from F. H. Ketchum, lessee of coal land, about.....	\$ 250.00
B—Stocks in incorporated companies, inter- est in joint stock companies and negotiable bonds.....	Nothing
C—Policies of Insurance:	
Fire Insurance.....	None
D—Unliquidated claims of every nature, with their estimated value.....	Nothing

E—Deposits of money in banking institu-
tions and elsewhere.....Nothing

PAT GIBBONS,
Bankrupt. [13]

Schedule “B” (4).

Property in reversion, remainder, or ex-
pectancy, including property held in
trust for the debtor, or subject to any
power or right to dispose of or to
change.....Nothing

PAT GIBBONS,
Bankrupt.

PROPERTY HERETOFORE CONVEYED FOR
BENEFIT OF CREDITORS.

What portion of debtor’s property has been
conveyed by deed or assignment, or other-
wise, for the benefit of creditors; date of
such deed, name and address of party to
whom conveyed; amount realized there-
from and disposition of the same, so far as
known to debtor.....None

What sums of money have been paid to counsel,
and to whom, for services rendered or to be
rendered in this bankruptcy.....None

PAT GIBBONS,
Bankrupt.

Schedule “B” (5).

A particular statement of the property claimed as
exempt from the operation of the Acts of
Congress relating to bankruptcy, giving each
item of property and its valuation; and, if any

portion of it is real estate, its location, description, and present use.

Lots nineteen (19) and twenty (20), town of Renton; also household goods and wearing apparel as set forth in Schedule "B" (2).

Cash in lieu of livestock allowed as exempt under subdivision 4 of Section 563 of Remington & Ballinger's Code.....\$250.00

PAT GIBBONS,
Bankrupt. [14]

Schedule "B" (6).

Books, Papers, Deeds and Writing Relating to Bankrupt's Business and Estate.

The following is a true list of all books, papers, deeds, and writings relating to the trade, business dealings, estate and effects, or any part thereof, which at the date of this petition are in my possession and under my control and custody, or which are in the possession or custody of any person in trust for me, or for my use, benefit or advantage, and also of all others which have been heretofore, at any time in my possession or under my custody or control, which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same.

Books.—

Deeds.—

Papers.—

PAT GIBBONS,
Bankrupt.

Oath to Schedule "B."

United States of America,
District of Washington,—ss.

On this 9th day of June, A. D. 1914, before me, personally came Pat Gibbons, the person mentioned in and who subscribed to the foregoing schedule, and who, being by me first duly sworn, did declare the said schedule to be a statement of all the estate, both real and personal, according to the Acts of Congress relating to bankruptcy.

PAT GIBBONS.

Subscribed and sworn to before me this 9th day of June, 1914.

[Seal] LEROY V. NEWCOMB,
Notary Public in and for the District and State of
Washington, Residing at Seattle in Said State.
[15]

Summary of Debts and Assets.

Schedule A-1	(1)	Taxes and debts due United States...	Nothing
"	" 1 (2)	Taxes due States, counties, districts and municipalities	Nothing
"	" 1 (3)	Wages.....	Nothing
"	" 1 (4)	Other debts preferred by law.....	Nothing
"	" 2	Secured claims.....	Nothing
"	" 3	Unsecured claims.....	\$97,833.39
"	" 4	Notes and bills which ought to be paid by other parties.....	Nothing
"	" 5	Accommodation paper.....	Nothing
Schedule "A" Total.....			\$97,833.39

Schedule B-1	Real estate.....	\$1,017,000.00
" " 2-a	Cash on hand.....	1,690.74
" " 2-b	Bills, promissory notes and securities..	Nothing
" " 2-c	Stock in trade.....	Nothing
" " 2-d	Household goods, etc.	300.00
" " 2-e	Books, prints and pictures.....	Nothing
" " 2-f	Horses, cows and other animals.....	Nothing
" " 2-g	Carriages and other vehicles.....	Nothing
" " 2-h	Farming stock and implements.....	Nothing
" " 2-i	Shipping and shares in vessels.....	Nothing
" " 2-j	Fixtures used in business.....	Nothing
" " 2-k	Patents, copyrights and trademarks.....	Nothing
" " 2-l	Other personal property.....	Nothing
" " 3-a	Debts due on open account.....	\$
" " 3-b	Stocks, negotiable bonds, etc.	Nothing
" " 3-c	Policies of insurance.....	None
" " 3-d	Unliquidated claims.....	Nothing
" " 3-e	Deposits of money in banking institu- tions and elsewhere.....	Nothing
" " 4-	Property in reversion, remainder, trust, etc.....	Nothing
" " "	Property heretofore conveyed for benefit of creditors.....	Nothing
" " "	Paid to counsel in bankruptcy proceed- ings for services rendered and to be rendered	Nothing
" " 5	Property claimed to be exempt.....	250.00
" " 6	Books, papers, deeds and writing relat- ing to bankrupt's business and estate Books..... Deeds	
	Papers, ordinary letters and accounts relating to business.....	
Schedule "B" Total.....		\$1,019,240.74

[16]

[Indorsed]: Amended Schedules. Filed June 9, 1914, at 2 o'clock P. M. John P. Hoyt, Referee. Filed in the United States District Court, Western District of Washington. Feb. 9, 1915. Frank L. Crosby, Clerk. By B. E. Simpkins, Deputy. [17]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

United States of America,
Western District of Washington,—ss.

I, Frank L. Crosby, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that I have compared the foregoing copies with the originals thereof in the foregoing entitled cause, now on file and of record in my office at Seattle, and that the same are true and perfect transcripts of said originals and of the whole thereof.

Witness my hand and the seal of said court, this
11th day of February, 1915.

[Seal]

FRANK L. CROSBY,
Clerk. [18]

[Endorsed]: No. 2481. United States Circuit Court of Appeals for the Ninth Circuit. Mary L. Gibbons, Petitioner, vs. J. S. Goldsmith, as Trustee in Bankruptcy of the Estate of Pat Gibbons, Bankrupt, Respondent. In the Matter of Pat Gibbons, Bankrupt. Supplemental Transcript of Record on Petition for Revision and Transcript of Record in Support Thereof, Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to

Revise, in Matter of Law, a Certain Order of the United States District Court for the Western District of Washington, Northern Division.

Filed February 17, 1915.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

